

1974/86



**THE DAIRY FACTORIES (LICENSING) REGULATIONS 1936,
AMENDMENT NO. 3**

ORDER IN COUNCIL

DENIS BLUNDELL, Governor-General

At the Government Buildings at Wellington this 17th day of April 1974

Present:

THE HON. H. WATT PRESIDING IN COUNCIL

PURSUANT to the Agriculture (Emergency Powers) Act 1934, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Dairy Factories (Licensing) Regulations 1936, Amendment No. 3, and shall be read together with and deemed part of the Dairy Factories (Licensing) Regulations 1936* (hereinafter referred to as the principal regulations).

(2) These regulations shall come into force on the day after the date of their notification in the *Gazette*.

2. Transfer of licences—Regulation 15 of the principal regulations is hereby amended by omitting from subclause (3) the words “The Director on receipt of such application shall, upon being satisfied as to the facts,” and substituting the words “If the Director is of the opinion that he should accede to the application he shall forthwith”.

3. New regulations (as to transfer of licences and ownership) inserted—The principal regulations are hereby amended by inserting, after regulation 15, the following regulations:

**Gazette* 1936, Vol. 1, p. 422
Amendment No. 1: S.R. 1949/114
Amendment No. 2: S.R. 1951/243

“15A. **Transfer of licence**—(1) If the Director is of the opinion that any application for a transfer should be refused he shall refer the application to a committee consisting of 3 persons who shall be nominated by the Minister.

“(2) The Director shall notify the applicant and the proposed transferee of his reference of the application to the committee and of the names and addresses of the members of the committee.

“(3) The applicant, if he wishes his application to be investigated by the committee, shall forthwith lodge with the Director security for the payment of the costs of the committee’s investigations in the sum of \$100 by way of deposit, or by bond with 2 approved sureties, or in such other form as the Director shall consider sufficient.

“(4) The committee may make such investigations as it thinks fit, and shall consider such representation as may be made to it, and shall report the results of its investigations to the Director. In particular the committee shall advise the Director on the following matters in relation to the application:

“(a) The probable or possible effect of competition on any neighbouring dairies duly registered under the Dairy Produce Regulations 1938*:

“(b) The desirability or otherwise in the public interest of approving the proposed transfer:

“(c) The effect of the proposed transfer on the organisation and orderly development in New Zealand of co-operative dairy companies as defined in the Co-operative Dairy Companies Act 1949.

“(5) The committee shall report its recommendations to the Director who shall, after taking into consideration the recommendations of the committee, grant or refuse the application as he thinks fit. If the Director grants the application he shall do so in the form set out in accordance with subclause (3) of regulation 15 of these regulations.

“(6) If the Director, after considering the recommendation of the committee, decides to refuse the application to transfer the licence he shall notify the applicant and the proposed transferee of his decision. His decision shall be final.

“(7) The costs of investigation by the committee, not exceeding the sum of \$100, shall be borne by the applicant and may be received out of the security given as aforesaid or be owing as a debt due to the Crown.

“(8) A certificate under the hand of the Director setting out the costs of any investigation shall be final.

“15B. **Transfer of ownership in a dairy factory**—(1) Nothing in this regulation shall apply to—

“(a) The transfer of shares or any change in the beneficial ownership of shares in a company registered under the Co-operative Dairy Companies Act 1949 if the proposed transferee or beneficial owner is or intends to become a supplying shareholder of that company; or

“(b) The transfer of any shares or any change in the beneficial ownership of shares under the will or on the intestacy of any person.

“(2) If a company is the holder of a licence for any premises licensed as a dairy factory under these regulations no transfer of shares in the company or change in the beneficial ownership of those shares shall take place except with the approval of the Director.

“(3) Every person who desires to transfer any shares in the company or any beneficial interest in those shares shall make application in writing to the Director for approval of the transfer.

“(4) If the Director is of the opinion that the transfer should be approved he shall so advise the applicant and the company holding the licence and thereafter it shall be lawful for the company, in accordance with its articles of association, to register the transfer or change of beneficial ownership.

“(5) If the Director is of the opinion that the proposed transfer should not be approved he may refer the application to a committee of 3 persons who shall be nominated by the Minister and thereafter the provisions of subclauses (2) to (8) of regulation 15A of these regulations shall apply as if the application for the transfer of shares or change in the beneficial ownership of shares were an application for a transfer of licence.”

P. G. MILLEN,

Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of regulations, but is intended to indicate their general effect.

These regulations amend the Dairy Factories (Licensing) Regulations 1936, introducing new provisions relating to the transfer of dairy factory licences and the transfer of shares in companies holding dairy factory licences. The main effect of the new provisions is that if the Director of the Dairy Division of the Ministry of Agriculture and Fisheries is of the opinion that any application for a transfer should be refused he must refer the application to a committee of 3 persons to be nominated by the Minister of Agriculture and Fisheries. The costs of investigating the application by the committee, not exceeding \$100, are payable by the applicant. The committee will, taking into account the criteria set out in paragraphs (a) to (c) of the new regulation 15A (4), report its recommendations to the Director, who after taking into account its recommendations, will grant or refuse the application as he thinks fit.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 18 April 1974.

These regulations are administered in the Ministry of Agriculture and Fisheries.